

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

MARK L. BRINDA,)	Cause No. CV 04-48-H-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
DR. S. RAMAKRISHNA and)	
R.N. REBEKHAH L. HULEN,)	
)	
Defendants.)	
_____)	

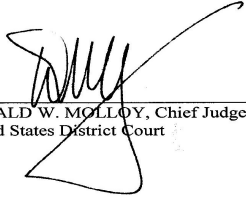
United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendation in this matter on November 7, 2005. Mark L. Brinda did not file objections and is therefore not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Brinda's original complaint alleges that the Defendants have violated his right under the Eighth Amendment to adequate medical

care. However, Brinda alleged no facts showing that the Defendants acted with "deliberate indifference" to his serious medical needs. Brinda was given an opportunity to correct the deficiencies in his § 1983 complaint, but he did not file an Amended Complaint. Judge Ostby concluded that Brinda's Complaint filed pursuant to 42 U.S.C. § 1983 should be dismissed for failure to state a claim on which relief may be granted.

I find no clear error in Judge Ostby's Findings and Recommendation (dkt #13) and I adopt them in full. Plaintiff's Complaint filed pursuant to 42 U.S.C. § 1983 (dkt #4) is DISMISSED.

DATED this 9th day of August, 2006.



DONALD W. MOLLOY, Chief Judge
United States District Court